IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M. NARAYANA REDDY

WRIT APPEAL NO : 1955 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 25/11/2004 in WP NO : 21572 OF 2004 on the file of the High Court.)

Between:

1 Boppana Ramarao, s/o Venkata Raju,
2 Boppana Panasaramanna s/o Venkata Raju,
3 Boppana Subba Rao s/o Venkata Raju,
4 Boppana Satyanarayana s/o Venkata Raju,
5 Boppana Veeraraju s/o Venkata Raju,
(All R/o Valluru Village, Kapileswarapuram Mandal, East Godavari District).

..... APPELLANTS

AND

1 Regional Joint Commissioner of Endowments,
Kakinada, East Godavari District.
2 Assistant Commissioner of Endowments, Rajahmundry,
East Godavari District.

3 Sri Venugopala Swamy Temple, Valluru Village,
Kapileswarapuram Mandal,
East Godavari District, rep. by its Executive Officer.

.....RESPONDENTS

Counsel for the Appellants : MR.T.V.S.PRABHAKARA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR ENDOWMENTS

Counsel for the respondent No.3: Smt. N. Indrani.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. Appeal is against the order passed by learned single Judge disposing of the writ petition with certain observations.

2. Appellants are the writ petitioners. Writ petitioners have questioned the legality and validity of the order passed on 09.11.2004 by Regional Joint Commissioner of Endowments, Kakinada, dismissing Appeal Nos. 84 to 88 of 2004 filed by the appellants against the order of the Assistant Commissioner, Endowments Department, Rajahmundry, in M.A.No.139 of 2003 dated 08.07.2004. Grievance is that appeals though filed were not heard and they were taken up on 09.11.2004. On that day counsel for the appellants has not been present and a request was made for adjournment and telegram was also received by 1st respondent to that effect. Thus, without considering the request for adjournment, appeals were taken up and were dismissed.

Therefore, they necessarily had to file the writ petition.

3. Learned single Judge instead of considering this question as to whether appeals had been disposed of after affording opportunity to the appellants or not had proceeded to examine the legality and validity of the order of the Regional Joint Commissioner. This exercise by the learned single Judge, in our view, ought not to have been done inasmuch as in writ jurisdiction, power of the judicial review cannot be exercised on factual aspects. Matter has to be left to be decided by the authorities constituted under A.P. Charitable and Hindu Religious Institutions and Endowments Act. Obviously Regional Joint Commissioner, Endowments, is the Appellate Authority to hear appeals against the orders passed by the Assistant Commissioner, Endowments, under Section 82 of the Act and while hearing the appeals, it would be open for the Appellate Authority even to go into the factual aspects. It may not be permissible when taking up judicial review. As such the order passed by learned single Judge is liable to be set aside and direction ought to have been issued to Regional Joint Commissioner to hear and dispose of the appeals afresh.

4. Writ appeal is allowed. Order impugned in the writ appeal is set aside. Writ petition is allowed and order impugned in the writ petition is set aside with direction to the Regional Joint Commissioner, Endowments, Kakinada, East Godavari District, to hear and decide appeals afresh and till appeals are heard and decided, status quo as regards possession shall continue to be maintained, subject, of course, to the appellants paying maktha. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 07.12.2004.

VRK.

Note:

Operative portion by wire at parties cost.

(BO)

To

1 The Regional Joint Commissioner of Endowments,
Kakinada, East Godavari District.
2 The Assistant Commissioner of Endowments,
Rajahmundry, East Godavari District.

3. Two CCs to G.P. for Endowments, High Court Buildings, Hyderabad (OUT)

4. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.A.NO. 1955 OF 2004.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 07.12.2004.